

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Anthony Lamar Martin**
Docket No. **275695**
L. Ct. No. **94-036758-FC**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The motion to waive fees is GRANTED for this case only.

The delayed application for leave to appeal from the February 10, 2006 order and the motion for remand are DISMISSED for lack of jurisdiction since the order in question denied a successive motion for relief from judgment, which was filed after August 1995, where no newly discovered evidence or retroactive change in the law can be found. MCR 6.502(G). Appellant's reliance upon *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005), as a retroactive change in the law is misplaced since appointed counsel represented him in an appeal of right from the July 14, 1994 judgment of sentence. See *People v Martin*, Unpublished per curiam opinion of the Court of Appeals, Decided March 15, 1996 (Docket No. 178416), lv den 453 Mich 973; 557 NW2d 315 (1996). Similarly, appellant's reliance upon *Blakely v Washington*, 542 US 296; 124 S Ct 2531, 2540; 159 L Ed 2d 403, 417 (2004), as a retroactive change in the law is misplaced since our Supreme Court has determined the United States Supreme Court's holding does not apply to the indeterminate sentencing system used in Michigan. *People v Drohan*, 475 Mich 140, 163-164; 715 NW2d 778 (2006).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR -1 2007
Date

Sandra Schultz Mengel
Chief Clerk